

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 18-263 (DWF/ECW)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Marcus Anthony Mattox,
a/k/a Marcus Anthony Mattox,
a/k/a M-Nutt,
a/k/a Marcus Anthony Maddox,

Defendant.

This matter is before the Court upon Defendant Marcus Anthony Mattox's ("Defendant") objections (Doc. No. 59) to Magistrate Judge Elizabeth Cowan Wright's April 3, 2019 Report and Recommendation (Doc. No. 57) insofar as it recommends that: (1) Defendant's Motion to Suppress Statements be denied; and (2) Defendant's Motion to Suppress Items Obtained by Warrantless Seizure be denied. The Government filed a response to Defendant's objections on May 14, 2019. (Doc. No. 61.)

The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Defendant's objections. In the Report and Recommendation, the Magistrate Judge carefully considered the totality of the circumstances to recommend that Defendant's motion to suppress statements should be denied because he was not in custody when he made the statements, and the statements were voluntary. The Magistrate Judge further

explained that because Defendant did not have a reasonable expectation of privacy in his hospital room when he self-admitted himself for gunshot wounds and a police officer was lawfully present, the plain-view exception applies to Defendant's bloody clothing and his motion to suppress should be denied.

Defendant objects to the Report and Recommendation's finding that his statements should not be suppressed because the totality of the circumstances demonstrates that his statements were involuntary. Specifically, Defendant contends that while the Report and Recommendation "correctly concluded that *Miranda* warnings were not required, it erred in failing to give any consideration to the lack of warnings in evaluating the totality of the circumstances." (Doc. No. 59 at 4.) The Government contends that Defendant's objection places too much emphasis on *Miranda* warnings and fails to credit the Report and Recommendation with having considered the totality of the circumstances, including important questions such as whether Defendant was under the influence of medication and whether the officers engaged in coercive acts.

Defendant also objects to the Report and Recommendation's finding that his clothing should not be suppressed. He contends that because he had a reasonable expectation of privacy in his public hospital room and the officer who seized his bloody clothing did not have a warrant, the officer was not lawfully present and the plain-view exception does not apply. The Government contends that the Report and Recommendation thoroughly considered this argument and properly rejected it.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. 636(b)(1) and Local Rule 72.2(b). After a careful review of Defendant's objections, the Court finds no reason to depart from the Magistrate Judge's recommendations. Based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court hereby enters the following:

ORDER

1. Defendant Marcus Anthony Mattox's objections (Doc. No. [59]) to Magistrate Judge Elizabeth Cowan Wright's April 3, 2019 Report and Recommendation are **OVERRULED**.
2. Magistrate Judge Elizabeth Cowan Wright's April 3, 2019 Report and Recommendation (Doc. No. [57]) is **ADOPTED**.
3. Defendant Marcus Anthony Mattox's Motion to Suppress Statements (Doc. No. [30]) is **DENIED**.
4. Defendant's Motion to Suppress Items Obtained by Warrantless Seizure (Doc. No. [31]) is **DENIED**.

Dated: June 3, 2019

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge